

**MINUTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

March 20, 2007

DIVISION ONE

Court convened at 9:00 a.m.

Present: Mallano, Acting P.J., Vogel (Miriam A.), J., Rothschild, J., Jackson, J. (Assigned) and S. Stahl, Deputy Clerk.

Each of the following:

B186073	People v. Cruz
B186753	People v. Moreno
B187552	People v. Gutierrez
B187941	People v. Reyes
B188809	People v. Russell
B189413	People v. Smith
B189513	People v. Lothridge
B190286	People v. Brandon B.
B190555	People v. Smith
B190793	People v. Melvin Z.
B191010	People v. Marroquin
B191928	People v. Ross
B192315	People v. Mendez
B192744	People v. Luzano
B189784/ B191628	DCFS v. Lisa B.
B191583	DCFS v. Lyneil G.
B192268	DCFS v. Dora D.
B192940	DCFS v. Deamuir G.
B193107	DCFS v. Dawn G.
B193154	DCFS v. Shelli B.

DIVISION ONE (Continued)

Each of the following (continued):

B193434 DCFS v. Tinisha C.
B193418 DCFS v. Margarita L.
B193098 DCFS v. Marissa H.

DIVISION ONE (Continued)

Argument waived, cause submitted.

B189663 People
 v.
 Ramos
 Zambrano

Merits:

Argued by Christine C. Shaver for appellant Zambrano and Marilee Marshall for appellant Ramos and by Michael Katz, Deputy Attorney General, for respondent. Cause submitted.

B187195 People
 v.
 Hernandez

Merits:

Argued by Susan Ferguson for appellant and by April S. Rylaarsdam, Deputy Attorney General, for respondent. Attorney General is directed to file supplemental brief within 14 days. Appellant shall have 14 days thereafter to respond. Submission deferred until April 17, 2007.

Jackson, J. (assigned) leaves the bench.

DIVISION ONE (Continued)

B188538 People

v.

Trejo

Merits:

Argued by Tara Selver for appellant and no appearance for respondent.

Cause submitted.

B195577 Jesus H.

v.

Superior Court, Los Angeles County

(Los Angeles Department of Children and Family Services, r.p.i.)

Merits:

Argued by Adam Reed for petitioner and by Lisa Proft, Deputy County

Counsel, for real party in interest. Cause submitted.

B185190 Quan et al.

v.

Delgado

Merits:

Argued by Thomas Swallow for respondent. Wayne T. Kasai waived argument for appellants. Counsel waived the presence of Presiding Justice Spencer. Cause submitted.

Vogel, J. leaves the bench.

DIVISION ONE (Continued)

B186378 Pallco Enterprises, Inc. et al.

v.

City of West Hollywood

Merits:

Argued by John David Pereira for appellants and by Lisa A. Vidra for respondent. Counsel waived the presence of Spencer, P.J. Cause submitted.

Vogel, J. returns to the bench.

Jackson, J. (assigned) returns to the bench.

Mallano, J. leaves the bench.

B185820 Frakes et al.

v.

Gottes

Merits:

Argued by John A. Bunnett for appellant and by Michael Leight for respondents. Cause submitted.

Mallano, J. returns to the bench.

Vogel, J. leaves the bench.

B194548 Los Angeles County, D.C.S.

v.

Eddie B.

Merits:

Argued by Leslie A. Barry for appellant and by Owen L. Gallagher, Deputy County Counsel, for respondent. Cause submitted.

DIVISION ONE (Continued)

Rothschild, J. leaves the bench.

B182090 Norwest Mortgage, Inc.
 v.
 Canyon View Estates et al.

Merits:

Argued by Robert M. Ruben for appellant Norwest Mortgage Inc. and by
Kathleen P. Dority Fuster for appellants Canyon View Estates et al..
Counsel waived the presence of Spencer, P.J. Cause submitted.

Court adjourned.

B196471 Illinois Central Railroad (Not for Publication)
 v.
 Superior Court, Los Angeles County
 (John Tyser, r.p.i.)

The Court:

THEREFORE, let a peremptory writ issue, commanding respondent
superior court to vacate its order of January 19, 2007, denying the motion
of Illinois Central Railroad Company to quash service of process, and to
issue a new and different order granting same, in Los Angeles Superior
Court case No. BC360266, entitled John Tyser v. BNSF Railway Company
et al. The parties shall bear their own costs.

Mallano, Acting P.J. Vogel (Miriam A.), J. Rothschild, J.

DIVISION ONE (Continued)

B197067 Jeffrey D. Markley (Not for Publication)

v.

Superior Court, Los Angeles County
(Timothy Darragh et al., r.p.i.)

The Court:

THEREFORE, let a peremptory writ issue, commanding respondent superior court to vacate its order of February 28, 2007, denying Jeffrey D. Markley's section 170.6 peremptory challenge, and to issue a new and different order granting same, in Los Angeles Superior Court case No. BC326508, entitled Timothy Darragh et al. v. Jeffrey D. Markley. The temporary stay order is hereby vacated. All parties shall bear their own costs.

Mallaon, Acting P. J. Vogel, J. Rothschild, J.

B193107 Los Angeles County, D.C.S. (Not for Publication)

v.

Dawn G.

The judgment is affirmed.

Vogel (Miriam A.), Acting P.J.

We concur: Rothschild, J.
 Jackson, J. (Assigned)

B185534 People
v.
Steven Coleman

Filed order modifying opinion. Petition for rehearing is denied. (No change in the judgment)

DIVISION THREE

B190255 People (Not for Publication)
v.
Moises Garcia

The judgment is affirmed in part and reversed in part. The convictions and the sentences are affirmed except for the two gang enhancements, the 15-year minimum parole eligibility term on count 2 and the 10-year enhancement on count 1, which must be vacated. The clerk of the superior court shall prepare an amended abstract of judgment to reflect these modifications, and forward the amended abstract of judgment to the Department of Corrections.

Klein, P.J.

We concur: Kitching, J.
 Aldrich, J.

DIVISION FOUR

B189912 Capolongo (Not for Publication)
v.
Santa Monica-Malibu Unified School District

The order of dismissal is affirmed. The District shall recover its costs on appeal.

Willhite, Acting P.J.

We concur: Manella, J.
Suzukawa, J.

DIVISION FOUR (Continued)

B187001 Liker et al. (Not for Publication)

V.

Herbalife International, Inc.

The order dismissing the action is reversed. The matter is remanded for further proceedings. Appellants are awarded their costs on appeal.

Manella, J.

We concur: Willhite, Acting P.J.
Suzukawa, J.

B193591 Krause et al. (Not for Publication)

V.

Loeb & Loeb et al.

The order denying the petition to compel arbitration is affirmed. Costs on appeal are awarded to respondents.

Willhite, J.

We concur: Epstein, P.J.
Suzukawa, J.

B189493 People (Not for Publication)

V.

McCree

The judgment is affirmed.

Epstein, P.J.

We concur: Willhite, J.
Suzukawa, J.

DIVISION FOUR (Continued)

B189968 People (Not for Publication)
v.
Batiste

The judgment is modified (1) to provide as to the mayhem count (count 5) that execution of the 4-year sentence and the 25-year-to-life sentence for the section 12022.53, subdivision (d), enhancement are stayed pursuant to section 654, the stay to become permanent upon service of the remainder of the sentence; and (2) to provide that appellant is sentenced to 8 months (one-third of the middle term of 2 years) for the negligent discharge of a firearm count (count 7), to run consecutively, resulting in a total state prison term of 57 years and 8 months to life. The trial court is ordered to prepare an amended abstract of judgment reflecting these modifications. The trial court shall send a corrected abstract of judgment to the Department of Corrections. As so modified, the judgment is affirmed

Willhite, J.

We concur: Epstein, P.J.
Manella, J.

B189499 People (Not for Publication)
v.
Luu

The trial court is directed to prepare and forward to the Department of Corrections an amended abstract of judgment reflecting defendant's entitlement to 477 (instead of 476) days of custody credit. In all other respects, the judgment is affirmed.

Willhite, J.

We concur: Epstein, P.J.
Manella, J.

March 20, 2007 (Continued)

DIVISION FOUR (Continued)

B191246 People (Not for Publication)

V.

Sicairos

The judgment is affirmed.

Manella, J.

We concur: Willhite, Acting P.J.

Suzukawa, J.

B193473 People (Not for Publication)

V.

Castrejon

The judgment is affirmed.

Willhite, Acting P.J.

We concur: Manella, J.

Suzukawa, J.

DIVISION FIVE

B189953 People (Not for Publication)

V.

Catherine Keidser

The judgment is affirmed.

Turner, P.J.

We concur: Mosk, J.

Kriegler, J.

DIVISION SIX

B189004 People (Not for Publication)

V.

Zamora

The judgment is affirmed.

Gilbert, P.J.

We concur: Yegan, J.

Perren, J.

B190697 People (Not for Publication)

V.

Moncada

The judgment is affirmed.

Gilbert, P.J.

We concur: Yegan, J.

Coffee, J.

DIVISION SEVEN

B195287 Kimeley G., (Not for Publication)

V.

Superior Court, Los Angeles County

(Los Angeles Department of Children & Family Services, r.p.i.)

The petition is denied.

Zelon, J.

We concur: Johnson, Acting P.J.

Woods, J.

DIVISION SEVEN (Continued)

B190626 People (Not for Publication)

V.

Fernando P.

The order under review is affirmed.

Woods, J.

We concur: Perluss, P.J.

Zelon, J.

B187957 People (Not for Publication)

V.

Tyler

The judgment is modified to strike the firearm enhancements of 25 years to life under section 12022.53, subdivision (d), on counts 3 and 4 and to impose firearm enhancements of 20 years under section 12022.53, subdivision (c), on those counts. As modified, the judgment is affirmed. The trial court is directed to modify the abstract of judgment to reflect (1) on counts 1 and 2 the imposition of firearm enhancements of 25 years to life under section 12022.53, subdivision (d); (2) on count 2 of the imposition of a consecutive life term, with a minimum eligible parole date of 15 years pursuant to section 186.22, subdivision (b)(5), plus a term of 25 years to life pursuant to section 12022.53, subdivision (d); and (3) on counts 3 and 4 the imposition of consecutive life terms with minimum eligible parole dates of 15 years pursuant to section 186.22, subdivision (b)(5), plus terms of 20 years pursuant to section 12022.53, subdivision (c), and to forward a copy of the corrected abstract of judgment to the Department of Corrections.

Perluss, P.J.

We concur: Woods, J.

Zelon, J.

March 20, 2007 (Continued)

DIVISION SEVEN (Continued)

B189661 People v. Tioran (Not for Publication)

The judgment is affirmed.

Woods, J.

We concur: Johnson, Acting P.J.
 Zelon, J.